

## NEBRASKA ADMINISTRATIVE CODE

### Title 132 - NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

#### Chapter 12 - DISPOSAL FEE REBATES

001 Purpose. The purpose of this chapter is to govern the application and reporting requirements for a rebate of a portion of the disposal fee mandated by Neb. Rev. Stat. §13-2042.

002 Eligible Applicant. An eligible applicant is any municipality or county which has a defined solid waste jurisdictional area and owns or operates or has a contract with a solid waste management disposal area or permitted solid waste processing facility transporting solid waste out of State.

003 Application Procedures. Applications meeting the following conditions will be considered for obtaining the rebate of the disposal fee:

003.01 Rebate application deadline. Applications may be submitted at any time during the year. Rebate of the disposal fee will be considered for the first full calendar year quarter following application approval.

003.02 Application Address. All applications shall be submitted to the Lincoln office of the Nebraska Department of Environmental Quality, Integrated Waste Management Section at the address stated on the application form.

003.03 Application Content. An application shall be on a form prescribed by the Department which includes the following information:

003.03A Name and address of applicant.

003.03B A copy of the written Purchasing Policy in effect and a certification signed by the chief executive officer confirming that the policy is currently in effect.

003.03C The signature of the applicant's chief executive officer or authorized agent.

003.03D Any other information required by the Department.

004 Minimum Purchasing Policy Content. The Purchasing Policy must contain, at a minimum, the following provisions:

004.01 The policy shall provide identification of any recycled products, materials, or supplies that the municipality or county intends to purchase and a list of all departments required to follow the Purchasing Policy.

004.02 The policy shall indicate that bid specifications have been revised to provide for preferences and/or set asides for recycled products, materials, or supplies. The policy shall stipulate that the recycled products, materials, or supplies shall consist of at least ten percent (10%) post-consumer material, unless otherwise approved by the Director, as a minimum content standard.

004.03 The policy shall provide that the preference or set aside shall not operate when it would result in the purchase of products, materials, or supplies which are of inadequate quality as determined by the municipality or county.

004.04 The municipality or county will strive to continually increase the percentage of total annual purchases of products, materials, or supplies manufactured or produced from post-consumer material.

004.05 The municipality or county will continually strive to annually increase the types and variety of products, materials, or supplies purchased that are manufactured or produced from post-consumer material.

005 Application Rejection. Applications may be rejected by the Department, as a result of, but not limited to, any of the following reasons:

005.01 Failure to comply with the requirements as stated in these regulations.

005.02 Falsification or misrepresentation of information.

006 Rebate Suspension. The rebate may be suspended by the Department, as a result of, but not limited to, any of the following reasons:

006.01 The municipality or county is not following the Purchasing Policy as presented in the approved application.

006.02 A determination by the Department of Environmental Quality or by the Department of Administrative Services that the municipality's or county's Purchasing Policy is not effective in assuring a preference to products, materials, or supplies which are manufactured or produced from post-consumer material.

006.03 Failure to comply with Department audit requirements.

006.04 Failure to provide required tonnage reports by specified deadlines.

007 Reinstatement of Suspended Rebate. The municipality or county must provide the documentation and information required by the Department to initiate a reinstatement of the suspended rebate.

007.01 To obtain a reinstatement, the Department must determine that the municipality or county is complying with the requirements of this chapter.

007.02 The Department must determine that the municipality or county is providing a preference to products, materials, or supplies which are manufactured or produced from

post-consumer material pursuant to their written Purchasing Policy which has been submitted to and approved by the Department subsequent to the suspension.

008 Appeals. Any suspension of the rebate or denial of an application made under these rules and regulations may be appealed. The appeal shall be in accordance with the Administrative Procedure Act.

009 Annual Purchasing Reports. The rebate recipient shall submit annual reports to the Department of Environmental Quality before April 1 of each year, in order to continue receiving the rebate. The annual purchasing report shall provide the following information on a form prescribed by the Department:

009.01 A summary of accomplishments addressing those objectives and goals stated in the approved application, including the past year's percentage of total purchases applied to products, materials, or supplies manufactured or produced from post-consumer material.

009.02 A description of the recordkeeping system being used to keep an accurate record of purchases of recycled products, materials, or supplies.

009.03 A list of all departments or governmental subdivisions participating in and using the Purchasing Policy.

009.04 A list of products, materials, and supplies purchased in accordance with the Purchasing Policy, and of recycled products reviewed for purchase.

009.05 Any revisions or modifications to the present Purchasing Policy. Modifications or revisions must be within the scope of the originally approved application.

009.06 Any other information required by the Department.

009.07 A copy of the contract or a description of the arrangements the municipality or county has with a permitted municipal solid waste disposal area and with solid waste haulers, including names and addresses.

009.08 A description of the recordkeeping system that will provide the Department with an accurate accounting of the amount of waste disposed at the municipal solid waste disposal area or transported out of State from a permitted solid waste processing facility which originated from the described solid waste jurisdictional area.

010 Tonnage Reports. The rebate recipient shall submit required tonnage reports to the Department of Environmental Quality on a schedule agreed upon between the municipality or county and the department. The schedule shall be no more often than quarterly and no less often than annually. The tonnage report shall be on a form prescribed by the Department which consists of the following:

010.01 A complete description and geographical definition of the municipality's or county's solid waste jurisdictional area.

010.02 The name and address of the permitted municipal solid waste disposal area where the waste was disposed or the name and address of the permitted solid waste processing facility that transported solid waste out of State.

010.03 An accurate accounting of the cubic yards and/or tons of waste disposed at a permitted municipal solid waste disposal area or transported out of State from a permitted solid waste processing facility that originated from the municipality's or county's defined solid waste jurisdictional area.

010.04 Any other information required by the Department.

011 Disbursement of Rebate. The Department shall rebate to the municipality or county of origin ten cents of the disposal fee required by Chapter 11, 001, for each six (6) cubic yards of uncompacted solid waste, for each three (3) cubic yards of compacted solid waste, or for each ton of solid waste disposed at a permitted municipal solid waste disposal area.

011.01 Rebates shall be disbursed to an approved applicant on or before the thirtieth day after receipt of the required tonnage report from the municipality or county of origin submitted in accordance with Section 010 of this Chapter.

012 Audits. Rebate recipients shall be subject to audits by the Department or its agents. Audits may include, but are not limited to, on-site inspections and review of financial records and relevant documents relating to the rebate and disposal fee program. Records shall be made available to the Department for the three (3) previous calendar years. The rebate recipient shall be responsible for making the following records available to the Department upon request:

012.01 Documentation of modifications to purchasing specifications and/or solicitation for bids and proposals to ensure that the municipality or county buys products, materials, or supplies manufactured or produced from post-consumer material.

012.02 Financial records, copies of all receipts, and other relevant materials to document expenditures for products, materials, or supplies manufactured or produced from post-consumer material.

012.03 Documentation used to calculate the cubic yards and/or tons of waste originating from the county's or municipality's solid waste jurisdictional area.

012.04 Documentation of the percentage of post-consumer material actually used in the products, materials, or supplies purchased in accordance with the Purchasing Policy.

012.05 Any other information required by the Department.

013 Penalties. Penalties may result from a violation of these regulations or specific rebate conditions. Penalties shall include suspension of rebate, reimbursement of rebate funds, or both.

Enabling Legislation: Neb. Rev. Stat. §§ 13-2034, 13-2042.01, 81-1505

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